

REMARKS/ARGUMENTS

Claims 138-155 are pending. By this Amendment, claim 138 is amended.

Reconsideration in view of the above amendments and the following remarks are respectfully requested.

Claims 138-150 were rejected under 35 U.S.C. §102(b) over Ingram et al. (U.S. Patent No. 5,611,446). This rejection is respectfully traversed.

Claim 138 is directed to a cap arrangement comprising an opening-indicator device having an outer edge wherefrom fin members lead away and extend, in use, internally of said cap arrangement, said fin members being intended to form an abutment for projection elements projecting from a neck of a container arrangement with which said cap arrangement can be associated, said fin members comprising an elongated element extending substantially rectilinearly from said opening-indicator device, said fin members further comprising flexible appendage elements forming a free end of said fin members, said elongated element having a first end connected with said opening-indicator device and a second end, opposite said first end, to which said appendage elements are connected, said flexible appendage elements having a substantially uniform thickness, said appendage elements being thinner than said second end such that said second end has, contiguously to said appendage elements in a direction of said uniform thickness, a zone of interaction adapted to abut against said projection elements, said appendage elements having a curved profile adapted to partially surround said projection elements when said zone of interaction abuts against said projection elements

The subject matter added to claim 138 is supported by at least paragraphs 84-86 and Figures 1-4 of the published version of the US application.

First, Ingram et al. fails to disclose at least that the appendage elements are thinner than the second end such that the second end has, contiguously to the appendage elements in the direction of the uniform thickness, a zone of interaction adapted to abut against the projection elements.

The appendage elements 43 of Ingram et al. are not thinner than the second end of the elongated element 42 to which they are connected. On the contrary, the elements 43 are thicker than the element 42. Moreover the second end of the elongated element 42 (the end from which the elements 43 leads away) has no zone of interaction which is arranged contiguously to the appendage elements 43 in the direction of the thickness thereto, and which is adapted to abut against the projection elements 37. Such a zone of interaction is completely absent in Ingram et al.

Second, Ingram et al. fails to disclose that the curved profile of the appendage elements partially surrounds the projection elements when the zone of interaction abuts against the projection elements.

As there is no zone of interaction, as described above, the configuration according to which this zone of interaction abuts against the projection elements is absent in Ingram et al. Moreover, Ingram et al. never show that the curved profile of the appendage elements 43 partially surrounds the projection elements 37 of the neck 31. It is noted that Figure 13 does not show such a configuration, as Figure 13 shows the mandrel M which inverts the elongated element 42 and the appendage elements 43 after the moulding. It is clear that the projection elements of the mandrel M differ from the projection elements 37 of the container 30. It is further observed that the elongated element 42 will never have a zone of interaction which is

arranged contiguously to the appendage elements 43 (in any direction) and which can interact with the projection elements 37 projecting from the neck 31.

In conclusion, the applied prior art fails to teach the flexible appendage elements of claim 138, which elements form a free end of the fin members, have a substantially uniform thickness and a curved profile adapted to partially surround the projection elements, and are thinner than the end of the elongated element to which they are connected so that, contiguously to the appendage elements in the direction of their uniform thickness, there is a zone of interaction adapted to abut against the projection elements.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 151-155 were rejected under 35 U.S.C. §103(a) over Ingram et al. in view of Dreyer et al. (U.S. Patent No. 6,006,930).

This rejection is respectfully traversed at least because Dreyer et al. does not make up for the deficiencies noted above with respect to Ingram et al.

Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140 under Order No. PTB-4017-98.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____ /Paul T. Bowen/
Paul T. Bowen
Reg. No. 38,009

PTB:jck
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100